

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Commission,) Application No. 911-031.01
on its own motion, seeking to)
establish surcharges assessed on)
users of prepaid wireless) ORDER APPROVING STIPULATION
service and, methods for the) AND STAYING PRIOR ORDERS
collection and remittance of) PENDING APPEAL
surcharges from carriers)
offering prepaid wireless)
services: TracFone Wireless,) Entered: April 30, 2008
Inc.

BY THE COMMISSION:

On June 19, 2007, the Nebraska Public Service Commission (Commission) opened this proceeding, on its own motion, to establish surcharges assessed on users of prepaid wireless service and methods for the collection and remittance of surcharges from carriers offering prepaid wireless services as required by the Enhanced Wireless 911 Services Act, Neb. Rev. Stat. § 86-441, et seq. (Cum. Supp. 2006), as amended by Nebraska Laws LB 661 [2007] (the Act).

On or about September 1, 2007, TracFone Wireless, Inc. filed an application to use an alternative method for the collection and remittance of the enhanced wireless 911 surcharge. On April 1, 2008, the Commission entered an order rejecting TracFone's proposed method and requiring TracFone to adopt one of the three established methods or, propose a suitable method not limited only to direct sales to users of its service, no later than fourteen (14) days from the date of the order.

On April 15, 2008, TracFone submitted a second alternative method, stating that the E911 surcharges would be collected at the point of retail sale at a rate of one percent (1%) on every retail sale of TracFone service and that third-party vendors would collect the surcharge and remit said amounts to TracFone who would then remit those amounts to the Commission. On April 22, 2008, the Commission entered an order rejecting the proposed method and requiring TracFone to choose one of the currently available methods. Furthermore, the Commission entered an order to show cause as to why TracFone should not be fined for failing to file an appropriate method.

TracFone intends to appeal the order entered by the Commission on April 1, 2008 rejecting its proposed method. TracFone and the Nebraska Telecommunications Infrastructure and Public Safety Department (Department) have entered into a stipulation to stay the orders entered by TracFone pending

appeal by TracFone. As part of the stipulation, TracFone agrees to continue to collect 1% of its direct sales as enhanced wireless 911 surcharges and remit those amounts to the Commission subject to all existing statutes, rules and regulations and Commission orders.

Furthermore, TracFone agrees that it shall not represent to any legislative, judicial or regulatory body that the Commission has approved its method of collection being used pending appeal. Should TracFone do so, it shall be subject to civil penalties for violation of a Commission order pursuant to Neb. Rev. Stat. § 75-156 and § 86-470.

O R D E R

IT IS THEREFORE ORDERED by the Commission that the stipulation between the Department and TracFone is approved subject to the terms herein.

IT IS FURTHER ORDERED that the orders entered in the above-captioned docket on April 22, 2008 are stayed pending appeal by TracFone and the hearing previously set for May 21, 2008 is cancelled.

IT IS FURTHER ORDERED that TracFone shall collect and remit enhanced wireless 911 surcharges as set forth herein pending appeal. Nothing herein shall prevent the Commission or the Department from enforcing any statute, rule or regulation or Commission order regarding the filing of remittance worksheets or the collection and remittance or surcharges.

IT IS FINALLY ORDERED that should TracFone represent that the Commission has in any way approved its interim method being used pending appeal for the collection and remittance of enhanced wireless 911 surcharges it shall be subject to civil penalties as set forth in Neb. Rev. Stat. § 75-156 and § 86-470.

MADE AND ENTERED at Lincoln, Nebraska, this 30th day of
April, 2008.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Chair

ATTEST:

Executive Director